



Illinois Department of Corrections

Administrative Directive

Number:

03.01.310

Title:

Sexual Harassment

Effective:

10/1/2021

Authorized by:

[Original Authorized Copy on File]

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Director

Supersedes:

03.01.310 effective 8/1/2020

Authority:

5 ILCS 430/50-5
730 ILCS 5/3-2-2
740 ILCS 174
775 ILCS 5/1-101 et seq.

Related ACA Standards:

5-ACI-1C-01 and 09, 5-ACI-1D-10, 11, 13 and 17,
5-ACI-1G-05

Referenced Policies:

01.12.101

Referenced Forms:

DOC 0279 – Equal Employment Opportunity and
Affirmative Action Complaint Form
DOC 0434 – Incident Report

I. POLICY

All employees are entitled to a work environment free from sexual harassment. The Department prohibits any form of sexual harassment.

II. PROCEDURE

A. Purpose

The purpose of this directive is to establish written procedures governing the responsibilities of staff for compliance with Department policy prohibiting sexual harassment.

B. Applicability

This directive is applicable to all correctional facilities, offices, programs and parole services within the Department.

C. Facility Reviews

A facility review of this directive shall be conducted at least annually.

D. Designees

Individuals specified in this directive may delegate stated responsibilities to another person or persons unless otherwise directed.

E. Definitions

Chief Administrator – the Chief Administrative Officer of a correctional center or program site; or for all other offices, the respective Deputy Director or Chief of the appropriate division or the Assistant Director of the Department.

Sexual Harassment – unwelcome sexual advances, requests for sexual favors or any conduct of a sexual nature when:

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1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such an individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Supervisor – an employee officially assigned on an on-going basis to: assign, review and control work of subordinate staff; complete and sign performance evaluations; recommend compensation; recommend and implement discipline; approve time off and make recommendations to hire, fire, promote and demote. This does not include lead workers. Higher level employees than the supervisor within the same chain-of-command shall have the same responsibilities for purposes of this directive as the supervisor.

F. General Provisions

1. For purposes of this directive, examples of sexual harassment include but may not be limited to:
 - a. Unwelcome sexual conduct in order to receive an employment opportunity.
 - b. Denial of employment opportunities when an individual does not submit to unwelcome sexual advances.
 - c. Threats with adverse employment consequences if the individual does not submit to unwelcome sexual advances.
 - d. Verbal conduct such as sexual innuendos, suggestive comments, insults, humor or jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates or statements about other employees, even outside of their presence, of a sexual nature.
 - e. Non-Verbal conduct such as suggestive or insulting sounds, such as catcalls, smacking, kissing noises, whistling, leering, obscene gestures or sexually suggestive bodily gestures.
 - f. Visual displays such as posters, signs, pin-ups, electronic mail, internet material, cartoons, graffiti, slogans or other material of a sexual nature.
 - g. Physical conduct such as unwelcome hugging, touching, kissing, pinching, brushing the body, coerced sexual acts or actual assaults.
 - h. Non-sexual conduct because of gender which unreasonably interferes with the employee's ability to perform his or her job.
 - i. Digital harassment including threats of physical assault of a sexual nature, intimidation, offensive jokes, epithets or name calling, ridicule or mockery, request for sexual favors, or lewd, obscene or offensive messages or pictures sent via state electronic devices.
2. This directive shall be posted at each facility and at each staffed building in the general office in prominent and accessible locations and in other locations where notices to employees are customarily posted.
3. The Chief Administrator shall ensure that all current and new employees have access to and are advised of the contents of this directive on an annual basis. A copy of this directive need not be given to each employee; however, documentation including the employees' signatures shall be

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maintained to verify that each employee has been advised of this directive annually. A copy of this directive shall be made available to any employee upon request.

4. Training on sexual harassment prevention and the agency's sexual harassment policy shall be included in pre-service training for new employees and as a component of ongoing training programs.
5. All employees with supervisory responsibilities shall complete training, including prevention of sexual harassment and handling of sexual harassment complaints. This training shall be completed within the first six months of initial appointment to a supervisory position.
6. The Office of Affirmative Action shall be available to provide assistance on the complaint process to any employee who believes that he or she has been subjected to sexual harassment.
7. Employees are urged to use the Department's internal complaint process to obtain a prompt, effective resolution to sexual harassment complaints. However, an employee may contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) about filing a formal complaint. An IDHR complaint must be filed within 300 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 days. Where the employing entity has an effective sexual harassment policy in place and the complaining employee fails to take advantage of that policy and allow the employer an opportunity to address the problem, such an employee may, in certain cases, lose the right to further pursue the claim against the employer.

G. Requirements

1. Employees shall refrain from sexual harassment.
2. Any employee who engages in or knowingly condones sexual harassment shall be subject to disciplinary action, including discharge.
3. Each supervisor shall maintain a workplace free of sexual harassment by promoting a professional environment and by addressing an observed or reported incident of sexual harassment as a serious form of employee misconduct.

H. Internal Complaint Process

1. Any employee who witnesses, is subjected to, or becomes aware of such conduct should:
 - a. Immediately document the incident on an Incident Report, DOC 0434, or on an Equal Employment Opportunity and Affirmative Action Complaint Form, DOC 0279.
 - b. Report the incident to his or her supervisor, Ethics Officer or Department's Affirmative Action Administrator or notify the next person in the chain of command if the employee's immediate supervisor is the person alleged to have engaged in harassment.
 - c. Directly and clearly express objection to the offending person and request that the offensive behavior stop.
2. A supervisor receiving an oral or written report of sexual harassment shall notify the Chief Administrator of the allegations in a timely manner. This requirement also applies to anonymous complaints or cases where the employee tells the supervisor about behavior considered sexual harassment but does not want to make a formal complaint. The Chief Administrator shall notify the Department's Affirmative Action Administrator. Initial notification may be made verbally with a follow up report of the allegations documented in writing.

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3. The Chief Administrator shall consider ways to minimize the possibility of continued sexual harassment or retaliation while the allegations are under review or investigation such as reassigning the accused employee. Prior to reassigning the alleged victim, the Chief Administrator shall consult with the Office of Affirmative Action.
4. The Chief Administrator shall initiate a review of the allegations and respond as soon as possible within five working days, or upon the employee's return to work, by taking one or more of the following actions:
 - a. Discuss the allegations with the reporting employee;
 - b. Discuss the allegations with the charged employee;
 - c. Refer the incident to the Office of Affirmative Action for formal investigation;
 - d. Refer the charged employee for disciplinary action, if warranted; or
 - e. Take other corrective action.
5. Failure to report allegations of misconduct shall be cause for discipline, up to and including discharge.
6. Allegations of conduct which may constitute criminal activity shall be reported in accordance with Administrative Directive 01.12.101.
7. In all cases, the Chief Administrator shall:
 - a. Within five working days of being advised of the allegations, or upon the employee's return to work, inform the alleged victim in writing of the action being taken;
 - b. Submit to the Office of Affirmative Action a copy of any written complaint, a summary of any verbal complaint, and a copy of the response to the alleged victim; and
 - c. When it is determined that sexual harassment has occurred, take prompt, appropriate corrective action, including discipline, lock out, or other similar measures. If the evidence is inconclusive, the Chief Administrator shall consider whether preventative measures such as training or monitoring should be employed.
 - d. Submit to the Office of Affirmative Action a copy of all employee disciplinary decisions involving sexual harassment within 60 days of the investigative outcome.

I. Investigations

1. The Office of Affirmative Action shall promptly investigate complaints referred for investigation. Internal Investigations shall submit a copy of any investigation report in which sexual harassment issues were brought forth during the course of an investigation to the Office of Affirmative Action. All complaints of sexual harassment shall be investigated thoroughly, and appropriate action shall be taken when warranted.
2. The Office of Affirmative Action shall ensure that the Chief Administrator, the alleged victim and the employee alleged to have engaged in sexual harassment are informed of the outcome of any formal investigation.
3. Employees are required to cooperate in any investigation into a complaint of sexual harassment. Failure to do so may result in disciplinary action.

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J. Department Volunteers, Interns, Contractual Personnel and Persons Employed by Contractors

1. Volunteers, interns, contractual personnel and employees of contractors shall refrain from sexual harassment.
2. Training on the Department's sexual harassment policy shall be included in orientation of volunteers and interns and pre-service training of contractual personnel and employees of contractors.
3. A volunteer, intern, contractor or employee of a contractor who believes that he or she has been subjected to sexual harassment in connection with their service to the Department shall immediately report the incident in writing to the Department employee overseeing the services of the volunteer, intern, contractor or person employed by a contractor, the Volunteer Service Coordinator, when applicable, the Chief Administrator or the Office of Affirmative Action.
4. Reports of sexual harassment involving a volunteer, intern, contractual personnel or employee of a contractor in cases where the harasser or victim is an employee of the Department shall be investigated by the Department. The Chief Administrator and the Office of Affirmative Action shall take the same actions to respond as is required in Paragraph II.H.
5. Reports of sexual harassment involving a volunteer, intern, contractual personnel or employee of a contractor that do not involve an employee of the Department shall be reported to the Office of Affirmative Action for a determination of the appropriate action to be taken.
6. Volunteers, interns, contractual personnel and employees of contractors are required to cooperate in any sexual harassment investigation conducted by the Department.

K. Retaliation

1. Retaliatory action against anyone alleging sexual harassment in good faith is prohibited even if the complaint is not substantiated. However, given the seriousness of the consequences for the accused, any employee who knowingly makes a false charge or provides false information, including, but not limited to, false information provided in statements, incident reports, correspondence or an interview, shall be subject to disciplinary action, including discharge. If a sexual harassment violation or intentional false reporting occurs, the consequences may be found in the State Officials and Employees Ethics Act, 5 ILCS 430/50-5. In the occasion this section conflicts with the Whistleblower Act (740 ILCS 174) or Section 15-5 of the Ethics Act, the applicable statute will take precedence.
2. An employee may not intentionally interfere with another employee's exercise of, or retaliate against an employee or witness for exercising, the right to grieve or file a complaint through established procedures; or retaliate against an employee or witness for filing a complaint, providing information to an investigatory official or testifying in an official proceeding.

L. Confidentiality

Information pertaining to a complaint of sexual harassment shall be kept confidential and shall only be disclosed in accordance with this directive or to persons with a need to know the information.